

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2848

PETITION OF GABRIELA ROMO AND DAVID LOUIS ANTONIOLI

OPINION OF THE BOARD
(Opinion Adopted May 15, 2013)
(Effective Date of Opinion: May 16, 2013)

Case No. S-2848 is an application, under Section 59-G-2.00 of the Zoning Ordinance, for a special exception to allow an accessory apartment. The subject property is Lot 25, Block 21, located at 6005 Overlea Road, Bethesda, Maryland 20816, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on November 8, 2013. The record in the case remained open until April 12, 2013, during which time Petitioner made significant revisions to the petition. The Hearing Examiner issued a Report and Recommendation for approval of the special exception on May 3, 2013.

Decision of the Board: Special Exception Granted Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on May 15, 2013. After careful consideration and review of the record in the case, the Board amends Condition 2(a) to require the special exception holders to provide a parking permit for the apartment tenants, adopts the Report and Recommendation, and grants the special exception subject to the following conditions:

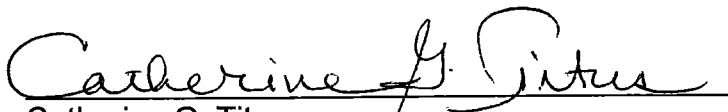
1. The Petitioners are bound by their testimony, representations and exhibits of record to the extent that testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this Opinion;

2. The Petitioners must comply with the conditions set forth in the Memorandum of Lynn McCreary, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 16):
 - a. The property has a one car garage. The driveway will accommodate two additional vehicles parked back to front. There is also on-street parking available. The special exception holders must make a permit for parking during restricted weekday periods available to the tenants of the accessory apartment.
 - b. The footprint of the efficiency unit consists of 434 square feet of floor space. There is a total of 338 square feet of habitable space which would allow for the occupancy of two people.
 - c. Accessory Apartment standards require a clear path of access to the outside. The current entry to the unit is through the garage. An egress door is required. The appearance of the single family house must be preserved.
 - d. Relocate the smoke detector away from the kitchen area.
3. The Petitioners must provide a separate exterior entrance and stairway to the accessory apartment located on the south side of the dwelling as proposed and in accordance with the revised plans (e.g., detailed construction drawings) (Exhibit 41(b)) submitted April 10, 2013.
4. The Petitioners must provide residential outdoor lighting to illuminate the walkway, stairway and at the accessory apartment door as shown on the revised Landscape and Lighting Plan (Exhibit 20(c)).
5. The Petitioners must comply with the determination of the Housing Code Inspector as to the limits on occupancy in the accessory apartment and must comply with any other directions of the Housing Code Inspector to ensure safe and code-compliant occupancy;
6. Based on 338 square feet of habitable space, no more than two people may occupy the accessory apartment.
7. The Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
8. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
9. The Petitioners must not receive compensation for the occupancy of more than one dwelling unit; and

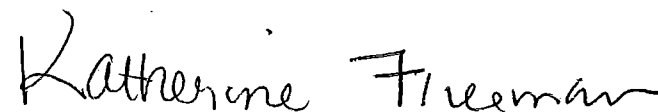
10. The Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by John H. Pentecost, with Stanley B. Boyd and Catherine G. Titus, Chair, in agreement, and David K. Perdue, Vice-Chair, necessarily absent, the Board adopted the following resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 16th day of May, 2013.


Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See

Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.